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January 26, 2022

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MINHYE PARK,

Plaintiff,

-against-

DAVID DENNIS KIM, M.D.,

Defendant.

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DEPOSITION of the Defendant, DAVID DENNIS  
KIM, M.D, taken by the Plaintiff, pursuant to order,  
held remotely via Zoom/LegalView Videoconferencing,  
on January 26, 2022, at 10:03 a.m., before a Notary  
Public of the State of New York.

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1 A P P E A R A N C E S:

2 JAE LEE LAW P.C.

3 Attorneys for Plaintiff

4 626 RXR Plaza

5 Uniondale, New York 11556

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7 BY: CAROL STONE, ESQ.

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10 HEIDELL PITTONI MURPHY & BACH, LLP

11 Attorneys for Defendant

12 99 Park Avenue

13 New York, New York 10016

14 BY: ALEJANDRA GIL, ESQ.

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1  
2 S T I P U L A T I O N S

3 IT IS HEREBY STIPULATED AND AGREED by and between.  
4 the attorneys for the respective parties herein,  
5 that filing, sealing and certification, and the same  
6 are, hereby waived.

7  
8 IT IS FURTHER STIPULATED AND AGREED that all  
9 objections except as to the form of the question,  
10 shall be reserved to the time of the trial.

11  
12 IT IS FURTHER STIPULATED AND AGREED that the  
13 within deposition may be signed and sworn to by an  
14 officer authorized to administer an oath, with the  
15 same force and effect as if signed and sworn to  
16 before the Court.

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2 IT IS FURTHER STIPULATED AND AGREED by  
3 and between counsel for all parties present that  
4 Pursuant to CPLR section 3113(d) this deposition is  
5 being conducted by video conference, that the court  
6 reporter, all counsel, and the witness are all in  
7 separate remote locations and participating via  
8 Videoconferencing (LegalView/Zoom) meeting under the  
9 control of Lexitas Court Reporting Service, that the  
10 officer administering the oath to the witness need  
11 not be in the place of the deposition and the  
12 witness shall be sworn in remotely by the court  
13 reporter after confirming the witnesses identity,  
14 that this video conference will not be recorded in  
15 any manner and that any recording without the  
16 express written consent of all parties shall be  
17 considered unauthorized, in violation of law, and  
18 shall not be used for any purpose in this litigation  
19 or otherwise.  
20

21 IT IS FURTHER STIPULATED that exhibits may be  
22 marked by the attorney presenting the exhibit to the  
23 witness, and that a copy of any exhibit, presented  
24 to a witness shall be emailed to or otherwise in  
25 possession of all counsel prior to any questioning  
of a witness regarding the exhibit in question. All  
parties shall bear their own costs in the conduct of  
this deposition by video conference, notwithstanding  
the obligation by CPLR to supply a copy of the  
transcript to the deposed party by the taking party  
in civil litigation matters.

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1 Dr. D. Kim

2 D A V I D D E N N I S K I M ,

3 having been first duly sworn before a Notary  
4 Public of the State of New York, was examined  
5 and testified as follows:

6 BY REPORTER:

7 Q State your name for the record.

8 A David Dennis Kim.

9 Q What is your address?

10 A Work address: 143-16 Sanford Avenue,  
11 Flushing, New York 11355.

12 EXAMINATION

13 BY MS. STONE:

14 Q Good morning, Doctor. My name is  
15 Carol Stone. I am questioning you in this  
16 deposition on behalf of the plaintiff, Minhye  
17 Park and her lawyer is Jae Lee, Esquire. I'm  
18 counsel to that firm.

19 I'm going to ask you some questions  
20 this morning. Have you ever been deposed  
21 before, doctor?

22 A Yes.

23 Q How many times have you been deposed  
24 before?

25 A Four.

1 Dr. D. Kim

2 Q Were you deposed as a defendant or  
3 something else?

4 A Defendant.

5 Q When was the last time you were  
6 deposed before today in other cases, I'm  
7 assuming?

8 A One year ago.

9 Q The four times that you were deposed  
10 before today, were those four different cases  
11 or something else?

12 A They were four different cases.

13 Q Were you the defendant in each of  
14 those four cases?

15 A Yes.

16 Q Did any of those cases resolve?

17 A Yes.

18 Q Were they medical malpractice cases?

19 A Yes.

20 Q Were you found neglect in any one of  
21 those cases?

22 A No.

23 Q Did any of the cases go to trial?

24 A Yes.

25 Q Is it your testimony that there was

1 Dr. D. Kim

2 not a finding during the trial of a departure  
3 from the standard of care against you?

4 A Can you repeat the question please.

5 (At this point in time, the  
6 requested portion of the record was  
7 read back by the reporter.)

8 A Yes.

9 MS. GIL: Objection to form,  
10 but you answered.

11 Q How long have you been at the address  
12 you testified to, Doctor?

13 A Since 2003.

14 Q Doctor, by the way, since you've been  
15 deposed before, I'm not going to go through  
16 all the rules. I'm just going to ask you to  
17 allow me to finish my question and then to  
18 answer it verbally. Also, if you need a  
19 break at anytime just let me know. I ask  
20 that if there's an open question you do your  
21 best to answer the open question and anytime  
22 you can have a break after that. Is that  
23 acceptable to you, Doctor?

24 A Yes.

25 Q Where did you attend medical school?

1 Dr. D. Kim

2 A St. George's University Medical  
3 School.

4 Q Where is that located?

5 A In New York and in the Caribbean.

6 Q Is there a particular country in the  
7 Caribbean where that school was located?

8 A Grenada and St. Vincent's.

9 Q Did you successfully complete your  
10 study at that school?

11 A Yes.

12 Q What year did you graduate?

13 A 1996.

14 Q Doctor, do you speak any other  
15 language besides English?

16 A A little.

17 Q What other language do you speak a  
18 little besides English?

19 A Spanish and Korean.

20 Q Incidentally, is there one Korean  
21 language or are there different types? Sort  
22 of like China has different languages in  
23 different areas, do you know that or not?

24 A I don't know.

25 Q How did you learn Korean?



1 Dr. D. Kim

2 A My parents are both Korean. And I've  
3 gone to Korean schools throughout my life.

4 Q When did you attend Korean school?

5 A I don't recall the exact years but  
6 when I was in middle school and high school.

7 Q Is there any one else practicing  
8 medicine at the address that you put on the  
9 record, Doctor? Do you have any partners,  
10 associates? Et cetera.

11 A Not at this time.

12 Q In 2017 did you have any partners or  
13 associates in your practice at that time?

14 A No.

15 Q You were a solo practitioner then in  
16 2017?

17 A Yes.

18 Q Doctor, after graduating medical  
19 school, did you serve a residency?

20 A Yes.

21 Q Where was that?

22 A In 1996 to 1997 I attended a residency  
23 at Albert Einstein in the Bronx.

24 Q In what area of medicine did you study  
25 during that time?



1 Dr. D. Kim

2 A Internal medicine.

3 Q After studying internal medicine, did  
4 you go on to study any other area of  
5 medicine?

6 A Yes.

7 Q I'm sorry. In a residency?

8 A Yes.

9 Q Where was that?

10 A At Flushing Hospital Medical Center.

11 Q What years did you study at Flushing  
12 Hospital?

13 A From 1998 to 2003.

14 Q And what area of medicine did you  
15 study and train in at that time?

16 A Obstetrics & gynecology.

17 Q Did you successfully complete your  
18 residency in obstetrics & gynecology at  
19 Flushing Hospital Medical Center?

20 A Yes.

21 Q Are you board certified in any area of  
22 medicine?

23 A Yes.

24 Q What area of medicine are you board  
25 certified in?

1 Dr. D. Kim

2 A Obstetrics & gynecology.

3 Q When did you become so certified?

4 A 2009.

5 Q Between 2009 and 2017, have you been  
6 continuously board certified in the area of  
7 obstetrics & gynecology?

8 A Yes.

9 Q Are you licensed to practice medicine  
10 in the State of New York?

11 A Yes.

12 Q What year did you become so licensed?

13 A I believe it was 2003.

14 Q Have you been continuously licensed in  
15 the State of New York in medicine since 2003?

16 A Yes.

17 Q Are there any other states that you  
18 are licensed to practice medicine in?

19 A No.

20 Q Did you start any fellowships in the  
21 area of obstetrics & gynecology after  
22 completing your residency?

23 A No.

24 Q What year did you begin your practice?  
25 In other words, you already testified as to

1 Dr. D. Kim

2 your business address.

3 Was that your first office as a  
4 privately practicing OB/GYN?

5 A Yes.

6 Q When did that begin?

7 A 2003.

8 Q In 2003 did you have any privileges at  
9 any hospital or medical center?

10 A Yes.

11 Q Which one or ones?

12 A Flushing Hospital Medical Center.

13 Q Do you have any teaching appointments  
14 at any hospital or medical center?

15 A Not at this time.

16 Q In 2017 did you have any teaching  
17 appointments at a medical center or hospital?

18 A No.

19 Q Did there come a time that you  
20 rendered medical care and treatment to the  
21 plaintiff, Minhye Park?

22 A Yes.

23 Q Did you review any records prior to  
24 this deposition regarding Miss Park?

25 A Yes.

1 Dr. D. Kim

2 Q Can you tell me what medical records  
3 you reviewed?

4 A The medical records from my medical  
5 office and the medical records from the  
6 Ambulatory Surgical Care Center..

7 MS. STONE: Ms. Torres, can we  
8 mark the medical records as  
9 Plaintiff's 1 for identification, and  
10 the Ambulatory Surgical Care Center  
11 record as Plaintiff's 2.

12 (At this point in time, medical  
13 records was marked as Plaintiff's  
14 Exhibit 1, for identification, as of  
15 this date.)

16 (At this point in time,  
17 Ambulatory Surgical Care Center record  
18 was marked as Plaintiff's Exhibit 2,  
19 for identification, as of this date.)

20 Q Did reviewing the chart prior to this  
21 deposition refresh your recollection  
22 regarding Miss Park?

23 A Yes.

24 Q Do you also have an independent  
25 recollection of treating Miss Park?



1 Dr. D. Kim

2 A Yes.

3 Q Can you tell me the date that you  
4 first met Miss Park.

5 A November 16, 2017.

6 Q Do you know how Miss Park came to your  
7 care? Was she referred to you or something  
8 else?

9 A I don't recall.

10 Q Did Miss Park speak English?

11 A I don't recall.

12 Q Did you have an assistance or a nurse  
13 or somebody working for you that was fluent  
14 in Korean?

15 A Yes.

16 Q And who would that be?

17 A Minji Jeong, Rachel Nham, Victoria  
18 Cho. There might have been a fourth, but I  
19 don't recall if she was working at that time.

20 Q But the other three were working in  
21 2017?

22 A Yes.

23 Q Is there a reason that you had three  
24 and possibly four people employed that were  
25 fluent in Korean?



1 Dr. D. Kim

2 A Yes.

3 Q Can you tell me what that reason is?

4 A They were all part-time employees and  
5 could not offer to work full time.

6 Q Did you have mostly a Korean  
7 population that came to your office?

8 A Yes.

9 Q What were Miss Park's complaints at  
10 the first visit?

11 A On November 16, 2017 she presented to  
12 my office to request to have an elective  
13 termination of pregnancy.

14 Q Did you perform any tests on her at  
15 that time?

16 A Yes.

17 Q What test did you perform?

18 A I performed a physical examination. I  
19 drew blood for blood tests, and performed a  
20 bedside sonogram.

21 Q Did you do a pregnancy test, Doctor?

22 A Yes.

23 Q What were the results of the pregnancy  
24 test?

25 A The urine pregnancy test on that day

1 Dr. D. Kim  
2 was positive for pregnancy. And the blood  
3 test was also drawn that day to check her  
4 pregnancy hormone.

5 MS. STONE: Just to let you  
6 know, my internet connection is going  
7 in and out all morning. I've tried to  
8 deal with the company that provides  
9 me, so it may happen again and  
10 hopefully not but I can't do much  
11 better other than try to fix it.

12 Q Did you obtain the date of Miss Park's  
13 last period?

14 A Yes.

15 Q And when was that?

16 A The first day of her last period was  
17 October 16, 2017.

18 Q Based on that, how many weeks pregnant  
19 was Miss Park when you first encountered her?

20 A By her last menstrual period of  
21 October 16, 2017, she was four weeks and  
22 three days on November 16, 2017.

23 Q Now, Doctor, you stated that you did a  
24 bedside sonogram.

25 Were you able to visualize the

1 Dr. D. Kim

2 pregnancy from the sonogram?

3 A The bedside sonogram did show evidence  
4 of a gestational sac.

5 Q Was that evidence of a pregnancy?

6 A The evidence of a pregnancy was  
7 confirmed by the urine pregnancy test that  
8 was positive that day.

9 Q Did you have a conversation with  
10 Miss Park with respect to her desire to have  
11 an elective termination of pregnancy?

12 A Yes.

13 Q What was the sum and substance of that  
14 conversation?

15 A I explained to her the risks and  
16 benefits of her option to terminate her  
17 pregnancy.

18 Q What options did you explain to her?

19 A That she can terminate the pregnancy  
20 by medicine or by surgery.

21 Q What was the risk of terminating the  
22 pregnancy by medicine that you explained to  
23 Miss Park?

24 A Pain. Bleeding and/or retained  
25 products of conception.

1 Dr. D. Kim

2 Q What was the other option that you  
3 discussed with Miss Park?

4 A Surgery.

5 Q What were the risks that you advised  
6 her for having an abortion?

7 A Pain. Bleeding. Infection.  
8 Perforation of the uterus. Retained products  
9 of conception and/or cervical laceration.

10 Q Doctor, is it fair to say that there  
11 are less risks of a medical abortion at the  
12 stage of pregnancy that Miss Park was in when  
13 you first met her over a surgical abortion?

14 MS. GIL: Objection to form.  
15 You can answer.

16 A Can you repeat the question please.

17 MS. STONE: Can you read it  
18 back, Miss Torres.

19 (At this point in time, the  
20 requested portion of the record was  
21 read back by the reporter.)

22 A Yes.

23 Q Did you offer her a medical abortion?

24 A No.

25 Q Why is it that you did not offer her a



1 Dr. D. Kim

2 medical abortion?

3 A I explained to the patient I don't  
4 provide medical termination of pregnancies  
5 for a few reasons: Number one, I'm not a  
6 prescriber for Mifepristone which is one  
7 medication that's given to patients for  
8 medical terminations of pregnancies.

9 Number two, it's unpredictable when a  
10 patient will respond to the medical  
11 medications that they take for the  
12 termination of pregnancy. And if the patient  
13 was to have any complications of heavy  
14 bleeding or severe abdominal pain, it's very  
15 hard for a lot of patients to be assessed  
16 quickly either in the hospital emergency room  
17 or my office.

18 Number three, if the patient doesn't  
19 have medical insurance they sometimes will be  
20 less likely or willing to go to the emergency  
21 room for any complications in fear of medical  
22 bills that they would incur.

23 Q Did Miss Park have co-insurance, if  
24 you know?

25 A No.



1 Dr. D. Kim

2 Q She did not. Okay.

3 This third reason for not providing  
4 the medical abortion, did you discuss the  
5 cost, medical cost had she had a medical  
6 abortion and had complications, did you  
7 discuss with her the cost of that in the  
8 emergency room?

9 A It's my custom and practice to explain  
10 that I do not provide medical terminations of  
11 pregnancies. If there were to be any  
12 complications from a medical termination,  
13 that that would need to be discussed with the  
14 provider offering that service.

15 I explained to the patient if she was  
16 to have a medical termination of pregnancy  
17 and had any complications, that I would not  
18 be able to help her and that she would need  
19 to call the provider who was offering that  
20 service, and if she had a problem and could  
21 not reach that provider, she would need to go  
22 to the nearest emergency room.

23 Q Did you discuss with her the cost of  
24 emergency room treatment for a person without  
25 medical insurance?

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1 Dr. D. Kim

2 A I don't recall.

3 Q In terms of Miss Park's history, did  
4 she give you any history that was significant  
5 to her pregnancy at the time that you met  
6 her?

7 A I don't understand your question. I'm  
8 sorry.

9 Q Her medical history, were you aware of  
10 her medical history?

11 A Yes.

12 Q What was that?

13 A She reports to have had two first  
14 trimester cervical terminations in the past.  
15 She also mentioned that she smoked about a  
16 half a pack of cigarettes a day. She denied  
17 any mental history. She denied any previous  
18 deliveries of pregnancies and reported no  
19 drug allergies.

20 Q Did she inform you that she was on  
21 birth control?

22 A Not on November 16, 2017.

23 Q Did she tell you about what years her  
24 previous two terminations of pregnancy were?

25 A I don't recall.

1 Dr. D. Kim

2 Q Did you consider that that part of her  
3 history to be any factor in whether she could  
4 have a surgical termination pregnancy with  
5 this pregnancy?

6 A Yes.

7 Q You did? Can you explain that.

8 A If the patient had had two prior  
9 surgical terminations of pregnancies, that  
10 with each subsequent surgery of the uterus,  
11 there might be an increased risk of  
12 developing scar tissue.

13 Q Was there any evidence of scar tissue  
14 during your examination of Miss Park that  
15 day?

16 A No.

17 Q Did Miss Park ask for a termination of  
18 pregnancy on that first date that she saw  
19 you?

20 A Yes.

21 Q And what was your response to that?

22 A That I would have to first confirm  
23 that she was pregnant, obtain a history, and  
24 perform physical exam and perform a sonogram.

25 Q And is that what you did on that day?

1 Dr. D. Kim

2 A Yes.

3 Q Was there a reason that you did not  
4 perform the surgical abortion after  
5 performing all those tests?

6 A Yes.

7 Q Can you explain that.

8 A By her last menstrual period she was  
9 about four weeks and three days pregnant.  
10 And after performing a bedside sonogram, I  
11 only saw gestational sac. I could not  
12 determine at the time if the pregnancy was  
13 growing inside the uterus or outside the  
14 uterus or if she was early in her pregnancy  
15 or at the end of her pregnancy.

16 Q When you say "end of her pregnancy,"  
17 can you explain that?

18 A Possible miscarriage.

19 Q Was there also a possibility of an  
20 ectopic pregnancy at that time?

21 A Yes.

22 Q Did the sonogram that you performed on  
23 her eliminate the possibility of an ectopic  
24 pregnancy?

25 A There is no evidence of an ectopic



1 Dr. D. Kim

2 pregnancy on the bedside sonogram.

3 Q After performing this test, did you  
4 tell Miss Park that she would have to return  
5 for the surgical abortion?

6 A No.

7 Q What happened? Did you have a  
8 conversation with her?

9 A Yes.

10 Q Doctor, incidentally before we go on,  
11 at that time was Eileen Kim, was she the  
12 manager of your office?

13 A No.

14 Q Did she work in your office?

15 A Not at this time.

16 Q Doctor, I'm just going to have you  
17 look at page three of four. It says on the  
18 top right "chaperone present." Do you see  
19 that?

20 A What page?

21 Q Page three of four.

22 A Yes. Number eight, is that it?

23 Q Yes.

24 A Okay.

25 Q Do you see the names -- first it says



1 Dr. D. Kim

2 "chaperone present" and then it has four  
3 names. Do you see that?

4 A Yes.

5 Q Does that mean that someone aside from  
6 yourself and Miss Park were in the  
7 examination room together?

8 A Not the names that are listed on that  
9 document.

10 Q Someone else other than these names?

11 A Yes.

12 Q Can you tell me what name of the  
13 person that was present?

14 A It was Minji Jeong.

15 Q And did Miss Jeong act as a Korean  
16 translator as well?

17 A Yes.

18 Q At that time during that visit with  
19 Miss Park, do you have a recollection as to  
20 Miss Jeong translating for you with  
21 Miss Park?

22 A I don't understand the question. I'm  
23 sorry. Can you repeat it please?

24 Q Do you recall if Ms. Jeong acted as a  
25 translator on that date with Miss Park?

1 Dr. D. Kim

2 A She was a translator on that date.

3 Q Did she translate for Miss Park during  
4 your examination and discussion with  
5 Miss Park about her options?

6 A Yes.

7 Q Doctor, did you then advise Miss Park  
8 to come back for a surgical abortion?

9 A No.

10 Q How did the visit to your office, how  
11 did it come about?

12 A After I explained the risks and  
13 benefits of her options to terminate the  
14 pregnancy, I asked the patient to return to  
15 my office the following week.

16 Q Did she do so?

17 A Yes.

18 Q What was the date that you saw her the  
19 second time?

20 A November 21st, 2017.

21 Q And did you see her in your office  
22 that day?

23 A Yes.

24 Q Did you examine Miss Park that day?

25 A Yes.

1 Dr. D. Kim

2 Q What kind of tests did you perform?

3 A I performed a physical exam and a  
4 bedside sonogram.

5 Q What were the results of the tests?

6 A That her physical examination was  
7 unremarkable, and that her bedside sonogram  
8 showed gestational sac inside the uterus and  
9 a yolk sac, but that there was no fetal pole  
10 or fetal heartbeat visualized.

11 Q How many weeks pregnant was she at  
12 that time?

13 A Five weeks and one day.

14 Q Did you have a discussion with  
15 Miss Park that day?

16 A Yes.

17 Q And what was the sum and substance?

18 A I reviewed the lab results of the  
19 blood test that were performed on  
20 November 16th. I reviewed the risks and  
21 benefits of her option to terminate her  
22 pregnancy.

23 Q What were the results of her blood  
24 test that day, Doctor?

25 A Her hcg on November 16th was 256, and

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1 Dr. D. Kim

2 her progesterone level was 28.

3 Q What did those results signify to you,  
4 if anything?

5 A The blood tests confirmed that she was  
6 pregnant and that there is a very good chance  
7 this pregnancy would be a viable pregnancy.

8 Q What was your plan of treatment at  
9 that time, Doctor?

10 A The patient requested to have a  
11 medical termination of pregnancy. I  
12 explained to the patient that I do not  
13 provide medical termination of pregnancies.

14 I offered her to go to Planned  
15 Parenthood where they do perform that  
16 service, and that I only perform surgical  
17 terminations of pregnancy.

18 Q When you so advised her, what was her  
19 response to that?

20 A Advised her about what?

21 Q About a medical termination and that  
22 you only did surgical termination.

23 A I did not tell Miss Park to have  
24 either a medical or surgical termination of  
25 pregnancy. It was her choice and she decided



1 Dr. D. Kim

2 to have a medical termination of pregnancy.

3 And for that reason I gave her the contact  
4 information for Planned Parenthood.

5 Q So did there come another time that  
6 you saw Miss Park?

7 A Yes.

8 Q And when was that?

9 A November 27, 2017.

10 Q Where did you see Miss Park on  
11 11/27/17? Did you see her in your office or  
12 somewhere else?

13 A Somewhere else.

14 Q Where did you see her?

15 A At the Surgical Care Center.

16 Q Did Miss Park change her mind about  
17 the medical termination or something else?

18 A She changed her mind.

19 Q Did she tell you that in a phonecall,  
20 something else?

21 A I do recall she called my office to  
22 inform me that she changed her mind about  
23 having a medical termination of pregnancy.

24 She expressed that she wanted to have  
25 surgical to terminate the pregnancy and after

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1 Dr. D. Kim

2 being given that message I told the secretary  
3 to tell the patient I can do the surgery --  
4 perform the surgery on November 27, 2017.

5 Q So that was at a surgical center,  
6 Doctor?

7 A Yes.

8 Q And where is that center located?

9 A 136-20 38th Avenue, suite 5-I,  
10 Flushing, New York 11354.

11 Q Is that a surgical center that you  
12 have privileges at or that you use somehow or  
13 you have some kind of relation with the  
14 people that are there? Can you explain that?

15 A I have privileges at that Surgical  
16 Care Center.

17 Q Is there a person or entity or a party  
18 that owns that surgical center?

19 A Yes.

20 Q Do you know who that is?

21 A I believe her name is Christine.

22 Q Do you know her last name?

23 A I don't recall.

24 Q If we leave a space in the record you  
25 can provide that?

1 Dr. D. Kim

2 A Yes.

3 Q You'll provide it to your attorney and  
4 then she'll provide it to us.

5 A Yes.

6 MS. STONE: Just leave a space.

7 REQUEST:

8 Q Doctor, is that the location that you  
9 customarily perform surgical abortions?

10 A Yes.

11 Q Do you have a particular schedule  
12 there or is it an "as needed" schedule or  
13 something else?

14 A I don't have any scheduled time, but  
15 if I do have a patient to request that  
16 surgery, I will call them to set up an  
17 appointment.

18 Q So, on that day 11/27/17 did you meet  
19 Miss Park at the surgical center?

20 A Yes.

21 Q Doctor, did Miss Park ever sign an  
22 informed consent form either at your office  
23 or at the surgical center?

24 A Yes.

25 Q Is it contained in the record?

1 Dr. D. Kim

2 A Yes.

3 Q Which place did she sign an informed  
4 consent?

5 A At the Surgical Care Center.

6 Q Can you tell me what page that is and  
7 possibly hold it up for me.

8 A This is from the Surgical Care Center.

9 Q Is your signature on it?

10 A Yes.

11 MS. STONE: I'm going to need a  
12 copy of that. I did not receive that.

13 REQUEST:

14 Q Where did you sign that?

15 A It's on the bottom of the page.

16 Q When did you sign that?

17 A On November 27, 2017.

18 Q And were you present when Miss Park  
19 signed hers?

20 A Yes.

21 Q Can you point out Miss Park's  
22 signature by holding it up?

23 A Right by my finger (indicating).

24 MS. GIL: Informed consent was  
25 marked as an exhibit at the



1 Dr. D. Kim

2 Plaintiff's deposition, and I provided  
3 it to the court reporter, so, it  
4 should be part of that transcript.

5 MS. STONE: Oh, thank you.

6 Q Was the form in English or Korean or  
7 both?

8 A English.

9 Q Was any translation in writing done on  
10 that form in Korean?

11 A No.

12 Q Did someone at the surgical center, if  
13 you know, verbally translate that form to  
14 Miss Park?

15 A Yes.

16 Q Who is that?

17 A Her name is also Christine.

18 Q Do you know her last name?

19 A No.

20 Q Is she still working there?

21 A Yes.

22 Q So if we leave a space in the  
23 transcript you can provide her last name?

24 A Yes.

25 REQUEST:

1 Dr. D. Kim

2 Q Were you present when she translated  
3 the form to Miss Park?

4 A Yes.

5 Q Now, Doctor, did you perform an  
6 examination of Miss Park before the surgical  
7 abortion occurred?

8 A Yes.

9 Q What test did you perform?

10 A A bedside sonogram.

11 Q Do you have the results of the  
12 sonogram in the record?

13 MS. STONE: It looks like this  
14 (indicating).

15 A Yes.

16 Q Was that done before the abortion took  
17 place?

18 A Yes.

19 Q What were your findings from that  
20 sonogram?

21 A That there was an intrauterine  
22 pregnancy with a gestational sac and a yolk  
23 sac.

24 Q And is that in the top image on that  
25 page here, the one we're looking at right

1 Dr. D. Kim

2 now?

3 A No.

4 Q Is the pregnancy the bottom image?

5 A Yes.

6 Q In other words, before the abortion  
7 the bottom image shows the pregnancy?

8 A Yes.

9 Q Did you do any blood test that day?

10 A A blood test was performed on that  
11 day.

12 MS. GIL: Hold on. I want to  
13 clarify the record. The pictures  
14 you're referring to are page 38 of  
15 Plaintiff's Exhibit 1.

16 Q Where is that from?

17 A It is my record in my office, the  
18 sonogram was performed at the surgical center  
19 on the day of the surgery.

20 Q Doctor, how many surgical abortions  
21 have you performed in your career,  
22 approximately?

23 A Hundreds, probably close to 1000.

24 Q Now, Doctor, can you describe how you  
25 proceeded after taking the ultrasound of

1 Dr. D. Kim

2 Miss Park that day?

3 A Do you want me to explain the surgical  
4 procedure to you?

5 Q Yes.

6 A The patient was in the operating room  
7 when the sonogram was performed, and after  
8 the sonogram the anesthesiologist had already  
9 spoken to the patient regarding the risks and  
10 benefits of anesthesia, he initiated  
11 anesthesia to the patient.

12 The patient was placed in a dorsal  
13 lithotomy position. She was prepped and  
14 draped in sterile fashion. A sterile heavy  
15 weighted speculum was placed in the posterior  
16 portion of the patient's vagina. A Sims  
17 speculum was placed in the anterior portion  
18 of the patient's vagina. An Allis clamp was  
19 used to grasp the anterior lip of the cervix.  
20 The endocervical canal was gently and  
21 gradually dilated with Hank's dilators. A  
22 6-millimeter suction curette was used to  
23 perform a suction curettage. A sharp  
24 curettage was then gently performed  
25 throughout the endometrial cavity until a



1 Dr. D. Kim

2 gritty texture was appreciated. A suction  
3 curettage was repeated to remove the  
4 remaining products of conception. All  
5 instruments were removed from the vagina.  
6 Excellent hemostasis was visualized.

7 Q Now, Doctor, with respect to that  
8 testimony, you were reading it from the  
9 operative report; is that correct?

10 A Yes.

11 Q Referring to page 37, that's your  
12 operative report of this termination of  
13 pregnancy, correct?

14 A Yes.

15 Q Did you sign this report anywhere?

16 A I have not my signature but I write a  
17 little note, a little circle on the top right  
18 corner of the document.

19 Q So that's your --

20 A Not my signature but just a notation  
21 that I reviewed the record.

22 Q Doctor, after the termination was  
23 completed, did you then do a sonogram?

24 A Yes.

25 Q Was it during the time that Miss Park

1 Dr. D. Kim

2 was still in the surgery suite?

3 A Yes.

4 Q So it was right after you finished?

5 A Yes.

6 Q How long did the procedure take  
7 approximately?

8 A Approximately of seven to ten minutes.

9 Q And then you performed another  
10 ultrasound?

11 A Yes.

12 Q Proceed to page 38, again, Doctor.

13 The image on the top there, is that the  
14 ultrasound from the post termination?

15 A Yes.

16 Q What findings did you make on that  
17 ultrasound?

18 A That the previous gestational sac and  
19 yolk sac that was seen prior to the surgery  
20 was no longer seen inside the uterus.

21 Q Doctor, did you examine physically,  
22 visually, the products of conception after  
23 the term?

24 A I recall seeing tissue pass through  
25 the suction curette when that was being

1 Dr. D. Kim

2 performed, and some tissue from the sharp  
3 curettage and that specimen was sent to the  
4 pathology lab.

5 Q When you say you recall seeing it, did  
6 you examine it? Did you visually examine it?

7 A I visualized it but I did not perform  
8 any pathological examination of it.

9 Q Did you see any fetal products in the  
10 products that came out with the abortion?

11 A I recall seeing tissue passing through  
12 the suction curette into the suction  
13 canister, and tissue from the sharp curettage  
14 that was performed.

15 Q What kind of tissue was that?

16 A It appeared to be products of  
17 conception.

18 Q Doctor, did the surgical center have  
19 some kind of backlight to give a visual of  
20 the products of conception?

21 A No.

22 Q When you say that you recall seeing  
23 some tissue in the curettage, correct, that  
24 was the tube leading out of the vagina and  
25 into somewhere else?

1 Dr. D. Kim

2 A The tissue that I saw was from the  
3 suction curette attached to a plastic tube  
4 that was attached to a suction device.

5 Q So where did that product end up at  
6 the end?

7 A There is a canister that collects that  
8 tissue.

9 Q Did you observe any of that tissue in  
10 the canister?

11 A I saw that tissue was collected in the  
12 cannister.

13 Q Did you visualize it in the cannister?

14 A I saw that there was tissue in the  
15 cannister.

16 Q Did you visually examine it in the  
17 cannister?

18 A I did not do anything more than  
19 visualize the tissue in the cannister.

20 Q Did you or did you not visualize it in  
21 the cannister?

22 A I saw that there was tissue in the  
23 cannister.

24 Q Did you examine the tissue visually  
25 while it was in the cannister?



1 Dr. D. Kim

2 MS. GIL: Objection to form.

3 You can answer.

4 A I did not perform any exam of that  
5 tissue that was in the cannister.

6 Q Did you then send the products of the  
7 surgical abortion to pathology?

8 A Yes.

9 Q Is this New Path Diagnostics?

10 A Yes.

11 Q Did you send the products of  
12 conception on 11/27/17 the date of the  
13 surgical abortion?

14 A Yes.

15 Q Doctor, I'm looking now at the  
16 pathology report. It's the last page of  
17 the -- well, for me it's the last page of the  
18 surgical center. I'm not really sure if it's  
19 part of your record or part of the surgical  
20 center's record, Surgical Center's record.  
21 Maybe if you clarify that for me.

22 A There is a copy of the pathology  
23 report on the last page of the records from  
24 the surgical center. And I believe there's  
25 one in my medical records as well.

1 Dr. D. Kim

2 Q When was it that you received that  
3 report, Doctor?

4 A The report mentions that it was faxed  
5 to my office on December 3rd.

6 Q Doctor, considering that the pathology  
7 had the specimen as of 11/27/2017, did you  
8 consider it to be a prolonged period of time  
9 before the report was received?

10 MS. GIL: Objection to form.

11 A I don't know if there is a schedule  
12 amount of time that the pathologist tried to  
13 return the reports of the specimen. It's  
14 hard for me to comment if it was a long  
15 period of time. There just is no standard  
16 time that the pathologists usually send the  
17 reports.

18 Q Doctor, when you received this report  
19 by fax, did you read it?

20 A Yes.

21 Q What day did you read it?

22 A Probably the same day that it was sent  
23 or the next business day.

24 Q Doctor, under "gross description" can  
25 you just read that into the record.

1 Dr. D. Kim

2 A (Reading): Product of conception.  
3 Curettage received in formalin in multiple  
4 fragments of tan soft tissue measuring 20 x  
5 20 x 20 millimeters with possible villi but  
6 no fetal parts. The specimen is entirely  
7 submitted in two cassettes.

8 MS. STONE: Off the record.

9 (At this point in time, a brief  
10 recess was taken.)

11 BY MS. STONE:

12 Q Doctor, on this pathology report sort  
13 of the top right there's a little circular  
14 mark; is that your mark?

15 A Yes.

16 Q And you put that there to indicate  
17 that you reviewed that report?

18 A Yes.

19 Q Did you speak with the pathologist  
20 after that?

21 A I don't recall.

22 Q Doctor, were you concerned at all  
23 about the patient after seeing that report?

24 A Yes.

25 Q Can you tell me the basis of your

1 Dr. D. Kim

2 concern?

3 A Whether or not there was retained  
4 products of conception or not.

5 Q Did that report signify that there  
6 were retained products of conception?

7 A I'm sorry, you broke up a little bit.  
8 Can you repeat that?

9 Q Did that report signify that there  
10 were retained products of conception?

11 A No. Well, it's not clear. I'll  
12 rephrase. It's not clear. The report stated  
13 that there was decidua with reactive changes  
14 but no villi was seen. However, in the gross  
15 description it's reported that there were  
16 possible villi.

17 So it wasn't quite clear whether or  
18 not there was tissue collected in that  
19 specimen from the products of conception or  
20 not.

21 Q Doctor, in the latter part of the  
22 report when it says, "no fetal parts," does  
23 that indicate that whatever came out of  
24 Miss Park on the date of the surgical  
25 abortion did not include the parts of the



1 Dr. D. Kim

2 fetus that would ordinarily be seen in the  
3 residual products?

4 A I don't understand the question. I'm  
5 sorry.

6 Q What does "no fetal parts" mean?

7 A That the pathologist didn't see any  
8 gross fetal parts.

9 Q So would that signify if there were no  
10 fetal parts in the pathology, that they were  
11 retained by Miss Park?

12 A Not necessarily.

13 Q Then what does it mean if the  
14 pathology comes back "no fetal parts"?

15 A You would have to ask the pathologist  
16 that question.

17 Q Let me ask it a different way: What  
18 was the significance to you of the report  
19 that said "no fetal parts"?

20 A It's not common to see fetal parts  
21 when a surgical termination is performed that  
22 early in the pregnancy. And, so, what was  
23 concerning was that no villi was seen and  
24 that prompted me to tell my secretary to call  
25 the patient to come back.

1 Dr. D. Kim

2 Q Were they told to inform the patient  
3 that there was this concern about the  
4 pathology report?

5 A It's my custom and practice to tell my  
6 staff not to discuss any medical issues with  
7 patients over the phone but to alert this  
8 patient that I wanted to talk to her, I was  
9 concerned about the pathology report and I  
10 would want to discuss this report with her  
11 and to see how she's doing.

12 Q So when was that phonecall made,  
13 Doctor?

14 A I don't recall.

15 Q Can you approximate in any way, a day  
16 after, a few days after, something like that?

17 A Either that day or the following  
18 business day when it was received.

19 Q Did Miss Park return to your office?

20 A She did.

21 Q What date did she return?

22 A On December 13, 2017.

23 Q Doctor, was Miss Park told or advised  
24 to return to the office as soon as possible  
25 during this phonecall to her?

1 Dr. D. Kim

2 A I didn't make the phonecall, so, I  
3 don't recall the exact conversation, but my  
4 secretaries were told to call the patient to  
5 inform her that I need to speak to her -- and  
6 she her about her pathology report.

7 Q Was any urgency given to that message?  
8 Did you instruct your secretary or your  
9 assistant to indicate to some sort of urgency  
10 to Miss Park to return to your office?

11 A It would be my custom and practice if  
12 there was anything of concern such as this,  
13 that I would tell my secretary to call the  
14 patient now at the time of the receipt of the  
15 report.

16 Q Would it be your custom and practice  
17 to indicate to the patient that either they  
18 should not wait too long to come back, or  
19 that there's some urgency in terms of you  
20 having to examine her?

21 A It depends on the situation.

22 Q On this situation, Doctor, would that  
23 be your custom and practice?

24 A It would be my custom and practice to  
25 tell the patient that she needs to come in to

1 Dr. D. Kim

2 review this report with me and to be further  
3 evaluated.

4 Q Would that include any sort of urgency  
5 to come in and not wait too long?

6 A It depends on the situation.

7 Q In this situation, Doctor, would you  
8 consider it a rather urgent situation to see  
9 the patient as soon as possible?

10 A I would not say that it was an  
11 emergency.

12 Q Would you consider it an urgent  
13 situation?

14 A That depends on how you define  
15 "urgent."

16 Q Doctor, did you consider Miss Park to  
17 possibly have retained products of conception  
18 in her womb after seeing the pathology  
19 report?

20 A That was a concern of mine.

21 Q Was that an urgent concern of yours?

22 A I can say it was a concern of mine.

23 Q You can't say that it was an urgent  
24 concern then?

25 A I would say that it would be



1 Dr. D. Kim

2 important.

3 Q Okay.

4 Doctor, what happens to a woman who  
5 has retained products of conception after an  
6 abortion, is she at a high risk for an  
7 infection or something else?

8 A There are different complications that  
9 can arise with a patient who has retained  
10 products of conception.

11 Q Can you tell me what they are?

12 A It can range from an absence of any  
13 complaints. Patient can have vaginal  
14 bleeding, pelvic pain, fever, foul-smelling  
15 vaginal odor or discharge.

16 Q If the products of conception are not  
17 removed surgically, can the person be at risk  
18 of an infection?

19 A It's possible.

20 Q Can the person be at risk of a severe  
21 infection?

22 A It depends on your definition of  
23 "severe."

24 Q Can the person be at risk of losing  
25 their uterus?

1 Dr. D. Kim

2 A I'm not aware of any cases where that  
3 has happened.

4 Q Doctor, on this pathology report there  
5 is also a circle on the bottom right, if you  
6 look at it, and with some numbers and some  
7 letters above the numbers. Do you see that?

8 A I do.

9 Q Do you recognize what that is?

10 A Yes.

11 Q Can you tell me?

12 A It's my signature with my writing  
13 where I wrote "discussed with patient  
14 12/13/17. "

15 Q So when the patient came to your  
16 office on 12/13 you had a discussion with  
17 her?

18 A Yes.

19 Q What was the sum and substance of your  
20 discussion?

21 A I asked her if she had any complaints  
22 of fever, chills, abdominal, pelvic pain or  
23 vaginal bleeding; she denied.

24 I also explained -- I also did a  
25 physical exam which was unremarkable. I

1 Dr. D. Kim

2 reviewed the results of the pathology report  
3 and expressed to the patient that I was  
4 concerned about the possibility of retaining  
5 products of conception, and that I would like  
6 to perform a pelvic sonogram to check her  
7 uterus.

8 Q Did you then perform the pelvic  
9 sonogram?

10 A Yes.

11 Q And was it on that date, 12/13/17?

12 A Yes.

13 Q What were the results of the pelvic  
14 sonogram?

15 A That there was a small fetus seen in  
16 the uterus with movement visualized. And by  
17 her last menstrual period that would make her  
18 at eight weeks and three days pregnant.

19 Q Do your records contain a copy of that  
20 sonogram?

21 A No.

22 Q Why is that, Doctor?

23 A I do not know but it is my custom and  
24 practice to have a copy of the sonograms done  
25 on the patients in the chart.

1 Dr. D. Kim

2 Q Did you inform Miss Park that she had  
3 an alive fetus in her uterus at that time?

4 A Yes.

5 Q Did the fetus have arms or legs?

6 A Yes.

7 Q Did the fetus have a head?

8 A Yes.

9 Q What was Miss Park's reaction to  
10 learning that she was carrying a live fetus?

11 A She was very upset.

12 Q What did she say?

13 A She declined my offer to perform the  
14 surgery the following day. She demanded a  
15 refund of the money that she paid for the  
16 surgery. She said that she is going to have  
17 the surgery in Korea in the month of  
18 December.

19 Q Doctor, how much had Miss Park paid  
20 you for your services?

21 A \$750 for the surgery.

22 Q How much did you refund her?

23 A \$750.

24 Q Did you apologize to Miss Park?

25 A I don't recall.



1 Dr. D. Kim

2 Q Did any of your staff apologize to  
3 Miss Park?

4 A I don't recall.

5 Q Do you know why Miss Park refused to  
6 have a second surgical abortion the next day  
7 from you?

8 A She didn't say.

9 Q Is there a reason why you refunded her  
10 her money?

11 A Because I didn't do the surgery that  
12 was intended to be done. It wasn't  
13 successful.

14 Q Did you advise Miss Park against going  
15 to Korea for the surgical abortion to remove  
16 the fetus?

17 A I remember I did offer to do the  
18 surgery the next day, or at her earliest  
19 convenience, and she was very upset and  
20 refused that offer.

21 Q Did you advise her against going to  
22 Korea for the surgical termination?

23 A I don't recall.

24 Q Did Miss Park have any complaints with  
25 regard to having a retained fetus? In other

1 Dr. D. Kim

2 words, any complaint of pain, bleeding, fever  
3 or anything like that?

4 A She denied having any fever, chills,  
5 abdominal or pelvic pain or vaginal bleeding.  
6 I do believe she did say that she had nausea.  
7 She reported occasional nausea, but that was  
8 the only complaint that she had at the time.

9 Q Doctor, after she left your office  
10 that day, did you ever hear from Miss Park  
11 again?

12 A She returned to my office the  
13 following day to pick up her money but did  
14 not talk to me at that time.

15 Q After that, did you ever hear from her  
16 again?

17 A No.

18 Q Did you ever review the records of her  
19 surgical abortion that occurred in Korea?

20 A No.

21 Q Doctor, have you ever reviewed any  
22 records to any prior abortion of Miss Park?

23 A No.

24 Q Doctor, are you aware of any evidence  
25 that Miss Park was contributorily neglect in

1 Dr. D. Kim  
2 the abortion or the incident that occurred  
3 here?

4 MS. GIL: Objection. That  
5 question is calling for a legal  
6 conclusion.

7 Q Are you aware of any evidence of facts  
8 that would lead to the conclusion that  
9 somehow Miss Park's actions or inactions had  
10 caused or partially caused the incomplete  
11 abortion here?

12 MS. GIL: Objection to form.  
13 You can answer, if you understand.

14 A Can you repeat the question.

15 MS. STONE: Can you read it  
16 back, Vilma.

17 (At this point in time, the  
18 requested portion of the record was  
19 read back by the reporter.)

20 A I don't know.

21 Q Do you have an opinion as to what  
22 caused the retained fetus in this case?

23 A I don't know.

24 Q Doctor, with respect to the four times  
25 that you had been deposed as a defendant in a

1 Dr. D. Kim  
2 medical malpractice case, do you have the  
3 index number of those cases?

4 A I do not.

5 Q Do you have the venue of those cases?

6 A Not with me, no.

7 Q Well, do you have them somewhere in  
8 your office?

9 A I could obtain that for you.

10 MS. STONE: So you'll give it  
11 to your lawyer and she can give it to  
12 us.

13 REQUEST:

14 Q Doctor, are you a citizen of the  
15 United States?

16 A Yes.

17 Q Are you a citizen of any other  
18 country?

19

20

21

22 (Continued on the next page  
23 to accommodate the jurat.)

24

25



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January 26, 2022

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Dr. D. Kim

A No.

MS. STONE: I have no further  
questions. Thank you.

(Time noted: 11:45 p.m.)

-----  
DAVID DENNIS KIM, M.D

Subscribed and Sworn to before me  
this            day of            , 2022.

-----  
Notary Public

## 1 I N D E X

2		
3	EXAMINATION BY	PAGE
4	MS. STONE	5

## 6 E X H I B I T S

## 8 PLAINTIFF'S

9	FOR IDENTIFICATION	DESCRIPTION	PAGE
10	1	Medical records	13
11	2	Ambulatory Surgical Care Center record	13

## 14 R E Q U E S T S

15			
16		DESCRIPTION	PAGE
17	Full name of the owner of the surgical		31
18	center		
19			
20	Informed consent from Surgical Care		32
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22			
23	Name of translator		33
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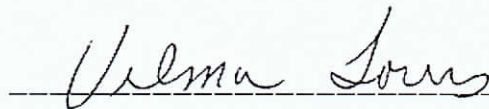
C E R T I F I C A T E

I, VILMA TORRES, hereby certify that the Deposition held before me on the 26th day of January, 2022; that said witness was duly sworn before the commencement of testimony; that the testimony was taken stenographically by myself and then transcribed by myself; that the party was represented by counsel as appears herein;

That the within transcript is a true record of the Deposition of said witness;

That I am not connected by blood or marriage with any of the parties; that I am not interested directly or indirectly in the outcome of this matter; that I am not in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, 2022.



VILMA TORRES, RPR, CSR

DAVID DENNIS KIM, being duly sworn, deposes and says: I have reviewed the transcript of my proceeding taken on 01/26/2022. The following changes are necessary to correct my testimony.

[illegible]

Subscribed and sworn to, before me  
this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

MY COMMISSION EXPIRES



January 26, 2022

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